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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,226	12/19/2001	Albert J. Robichaud	PH-7306	4378

23914 7590 02/24/2003

STEPHEN B. DAVIS  
BRISTOL-MYERS SQUIBB COMPANY  
PATENT DEPARTMENT  
P O BOX 4000  
PRINCETON, NJ 08543-4000

EXAMINER

RAO, DEEPAK R

ART UNIT	PAPER NUMBER
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1624

DATE MAILED: 02/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
10/026,226

Applicant(s)  
Robichaud et al.

Examiner  
Deepak Rao

Art Unit  
1624



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Dec 19, 2001
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 ☒ are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 1-15 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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### **DETAILED ACTION**

Claims 1-15 are pending in this application.

#### ***Election/Restriction***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-15, drawn to compounds of formula (I) wherein T<sup>ag</sup> is a heterocyclic serotonin receptor ligand template of formula 1) or 2), corresponding composition and method of use, classified in class 548, subclass 361.1+.
- II. Claims 1-15, drawn to compounds of formula (I) wherein T<sup>ag</sup> is a heterocyclic serotonin receptor ligand template of formula 3) or 11), corresponding composition and method of use, classified in class 544, subclass 344+.
- III. Claims 1-15, drawn to compounds of formula (I) wherein T<sup>ag</sup> is a heterocyclic serotonin receptor ligand template of formula 4), corresponding composition and method of use, classified in class 548/546/540, subclass various (depending on the definitions of substituents).
- IV. Claims 1-15, drawn to compounds of formula (I) wherein T<sup>ag</sup> is a heterocyclic serotonin receptor ligand template of formula 5) or 10), corresponding composition and method of use, classified in class 548, subclass 469+.

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- V. Claims 1-15, drawn to compounds of formula (I) wherein T<sup>ag</sup> is a heterocyclic serotonin receptor ligand template of formula 6), corresponding composition and method of use, classified in class 549, subclass 462+.
- VI. Claims 1-15, drawn to compounds of formula (I) wherein T<sup>ag</sup> is a heterocyclic serotonin receptor ligand template of formula 7), corresponding composition and method of use, classified in class 546/548, subclass various (depending on the definitions of substituents).
- VII. Claims 1-15, drawn to compounds of formula (I) wherein T<sup>ag</sup> is a heterocyclic serotonin receptor ligand template of formula 8), corresponding composition and method of use, classified in class 546, subclass 79+.
- VIII. Claims 1-15, drawn to compounds of formula (I) wherein T<sup>ag</sup> is a heterocyclic serotonin receptor ligand template of formula 9), corresponding composition and method of use, classified in class 548, subclass 359.1+.

The inventions are distinct, each from the other because of the following reasons:

Groups I-VIII are drawn to structurally dissimilar compounds. They are made independently and used independently. They would be expected to raise different issues of patentability if a compound of Group I, consisting of benzopyrazole compounds were anticipated, the anticipatory reference would not necessarily render obvious the compounds of Groups II-VIII or vice-versa. They are not art recognized equivalents, they are classified separately and require separate burdensome searches both in the literature and patent databases.

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Because these inventions are distinct for the reasons given above and as shown by their different classification, have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Claims are generic to a plurality of disclosed patentably distinct species comprising the species disclosed in the application. In addition to the election of a single group, applicant is required under 35 U.S.C. 121 to elect **a single disclosed species falling within the elected group**, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

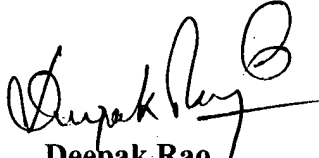
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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deepak Rao whose telephone number is (703) 305-1879. The examiner can normally be reached on Tuesday-Friday from 6:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Mukund Shah, can be reached on (703) 308-4716. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

  
**Deepak Rao**  
**Primary Examiner**  
**Art Unit 1624**

February 22, 2003